

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

-----X
KAYLA PHILLIPS,

Plaintiff,

-against-

Index No.: **508175/2013**

**VERIFIED
COMPLAINT**

**BARNEYS NEW YORK, INC., NYPD SGT. ERICA
TRIEBEL (Shield #4498), NYPD P.O. BRIAN KUSTERER
(Shield #23903), NYPD POLICE OFFICER/DET "JOHN
DOE 1" member of the Grand Larceny Squad and NYPD
POLICE OFFICER/DET "JOHN DOE 2" member of the
Grand Larceny Squad.**

Defendants.
-----X

Plaintiff, **KAYLA PHILLIPS**, by her attorney, **THE LAW OFFICE OF KAREEM R. VESSUP, ESQ.**, complaining of the Defendants herein respectfully allege as follows:

1. That at the time of the commencement of this action Plaintiff **KAYLA PHILLIPS** was a resident of the County of Kings, City and State of New York.
2. At all times herein mentioned, the Defendant, **BARNEYS NEW YORK, INC.** (Hereinafter referred to as "**BARNEYS**"), was and is a Foreign Business Corporation authorized to do business within the State by virtue of the laws of the State of New York.
3. At all times herein mentioned, Defendant **BARNEYS** maintained a principal place of business at 575 Fifth Avenue, 11th Floor in the County of New York, City and State of New York.
4. At all times herein mentioned, Defendant **BARNEYS** established, maintained and continues to maintain retail department stores within the City of New York, including, but not limited to, a retail store at 660 Madison Avenue in Manhattan, NY.
5. At all times herein mentioned, Defendant **NYPD SGT. ERICA TRIEBEL (Shield**

#4498) (Hereinafter referred to as **"SGT. TRIEBEL"**) was and continues to be a police officer, detective or sergeant of the New York City Police Department whose actual place of business is in the County of New York, City and State of New York.

6. At all times herein mentioned, Defendant **NYPD P.O. BRIAN KUSTERER (Shield #23903)** (Hereinafter referred to as **"P.O. KUSTERER"**) was and continues to be a police officer, detective or sergeant of the New York City Police Department whose actual place of business is in the County of New York, City and State of New York.

7. At all times herein mentioned, and upon information and belief, **NYPD POLICE OFFICER/DET. "JOHN DOE 1"** member of the Grand Larceny Squad and **NYPD POLICE OFFICER/DET. "JOHN DOE 2"** member of the Grand Larceny Squad (Hereinafter referred to as **"P.O. JOHN DOE 1"** and **"P.O. JOHN DOE 2"** respectively) were and continue to be police officers, detectives and/or sergeants of the New York City Police Department whose actual places of business are in the County of New York, City and State of New York. The names of these defendants are not currently known to Plaintiff however these two officers/detectives were present and acting along with Defendants **SGT. TRIEBEL** and **P.O. KUSTERER** on the dates and times described herein. Upon information and belief one of these defendants is an African American male and the other an Asian American male.

8. On or about February 28, 2013 at approximately 4:30 p.m., Plaintiff **KAYLA PHILLIPS** was a lawful patron within the **BARNEYS** retail store at 660 Madison Avenue, New York, NY. She was shopping for a Celine Designer handbag.

9. While Plaintiff was shopping, upon information and belief, one or more of the Defendants **SGT. TRIEBEL, P.O. KUSTERER, P.O. JOHN DOE 1"** and **P.O. JOHN DOE 2** (Hereinafter referred to collectively as **"NYPD OFFICERS"**) entered or were present within the aforementioned

BARNEYS Retail Store as part of a cooperative effort between **BARNEYS** and the **NYPD OFFICERS**.

10. Upon information and belief, these **NYPD OFFICERS** were given access to equipment owned and maintained by Defendant **BARNEYS** as well as information pertaining to Plaintiff for the purpose of monitoring, surveilling and tracking Plaintiff while she shopped.

11. Plaintiff was provided with the aforementioned Celine bag and was made aware of a return policy that was in effect granting her the right to return the bag in an unused condition for a full refund within a certain period of time.

12. Plaintiff exited the **BARNEYS** retail store and proceeded to the 59th Street Lexington Avenue Subway Station approximately three and one-half blocks away from the retail store.

13. As Plaintiff was about to swipe her metro card to enter the turnstile, she was physically accosted by four plain clothes NYPD officers, those officers being Defendants **SGT. TRIEBEL, P.O. KUSTERER, P.O. JOHN DOE 1 and P.O. JOHN DOE 2**.

14. Thereafter Plaintiff was detained, questioned and interrogated by the Defendant **NYPD OFFICERS** against her will and without her consent or permission. Said officers interrogated plaintiff with specific information about her purchase obtained from their cooperation with **BARNEYS**.

15. Portions of the interrogation by the Defendant **NYPD OFFICERS** included the following in sum and substance:

<u>Officer</u>	Where are you from?
<u>Ms. Phillips</u>	Brooklyn
<u>Officer</u>	Well, then what are you doing here?
<u>Ms. Phillips</u>	I was shopping

....

Officer Where did you get the money from to purchase that bag?

Ms. Phillips Its my money. I used my bank card.

Officer Show us the card.

Ms. Phillips (presents bank card)

Officer This is not the card you used for your purchase. Show me the card you used.

Ms. Phillips I'm sorry you're right. I used my temporary card. (presents the temporary card).

.....

Officer Where do you get the money to buy the Channel bag you are wearing?

Ms. Phillips This is my mother's bag.

Officer How can you afford all of these nice bags?

.....

Ms. Phillips Why are you stopping me?

Officer If someone was accused of stealing your card or identity you would want us to investigate them wouldn't you?

16. Approximately two days later Plaintiff returned the bag pursuant to BARNEYS return policy to a different Barneys Retail location in Brooklyn, NY for a full refund.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST BARNEYS NEW YORK, INC. BASED ON 42 U.S.C. 1981.

17. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "16" as if set forth herein at length.

18. Pursuant to 42 U.S.C. § 1981(a), "all persons... shall have the same right... to make and enforce contracts... and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens."

19. Plaintiff **KAYLA PHILLIPS** as an African American woman, is a member of a racial minority.

20. That upon information and belief on February 28, 2013 Defendant **BARNEYS** through its agents, servants and/or employees racially profiled and discriminated against Plaintiff by monitoring, surveilling and tracking her while she shopped in the store then identifying her to Defendant **NYPD OFFICERS** as a perpetrator of credit card fraud with no basis other than the fact that she is an African American woman.

21. Furthermore, upon information and belief, no other customer of Defendant **BARNEYS** at or around the time of Plaintiff's transaction was subjected to being followed, stopped, questioned and searched by the **NYPD OFFICERS** having specific information about their retail transactions.

22. The foregoing conduct of Defendant **BARNEYS** in cooperation with Defendant **NYPD OFFICERS** evidences that on February 28, 2013 Defendant **BARNEYS** intended to racially discriminate against Plaintiff **KAYLA PHILLIPS** with willful and wanton disregard of the rights and privileges guaranteed Plaintiff by the Constitution of the United States, federal, state and local law.

23. That by engaging in the aforementioned conduct Defendant **BARNEYS** interfered with Plaintiff's right to make and enforce a contract in violation of 42 U.S.C. § 1981.

24. That by engaging in the aforementioned conduct **BARNEYS** interfered with Plaintiff right to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens in violation of 42 U.S.C. § 1981.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST BARNEYS NEW YORK, INC.
BASED ON 42 U.S.C. § 1982

25. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "24" as if set forth herein at length.

26. In relevant part, 42 U.S.C. § 1982 provides that, "all citizens of the United States shall have the same right... as is enjoyed by white citizens thereof to... purchase... hold, and convey... personal property."

27. The forgoing conduct of Defendant BARNEYS on February 28, 2013 in cooperation with the Defendant NYPD OFFICERS evidences BARNEYS' intent to racially profile and discriminate against Plaintiff.

28. Upon information and belief, Defendant BARNEYS did not provide information regarding any other store patron, or provide the NYPD OFFICERS with access to equipment to monitor and track any other customer of the store at the time of Plaintiff's patronage. Plaintiff was singled out and treated differently by Defendants.

29. That BARNEYS afore-described conduct of racially profiling and discriminating against Plaintiff with willful and wanton disregard for her rights guaranteed by the United States Constitution, federal, state and local law violated Plaintiff's rights under 42 U.S.C. § 1982 to purchase and hold personal property.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST BARNEYS NEW YORK, INC.
BASED ON 42 U.S.C. § 1983

30. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "29" as if set forth herein at length.

31. In relevant part, 42 U.S.C. §1983 provides that, “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

32. Upon information and belief on February 28, 2013 Defendants **BARNEYS** and the **NYPD OFFICERS** acted jointly to racially profile and discriminate against Plaintiff and monitor, surveil, track, stop, accost, question and search her in violation of her rights and privileges guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution, 42 U.S.C. §§ 1981 and 1982 as well as under and other applicable federal constitutional and statutory rights.

33. In the manner aforesaid Defendant **BARNEYS** through its agents, servants and/or employees acted under color of law and acted maliciously, willfully and with wanton disregard of Plaintiff rights to be free from:

- a. Unreasonable search and seizure
- b. Search and seizure without probable cause or reasonable suspicion
- c. Unlawful detainment
- d. Civil assault
- e. Interference with her right to make and enforce contracts
- f. Interference with her right to purchase and hold personal property
- g. Discriminatory treatment based on her color and race

h. Unlawful interference with her liberty rights

34. As a result of Defendant's conduct Plaintiff suffered a deprivation of the above enumerated rights guaranteed by the United States Constitution, the laws of The United States and the State of New York.

**AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANT BARNEYS
NEW YORK, INC. AND DEFENDANT NYPD OFFICERS BASED ON 42 U.S.C. § 1985(3)**

35. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "34" as if set forth herein at length.

36. In relevant part, 42 U.S.C. § 1985(3) provides that, "[i]f two or more persons in any State or Territory conspire... for the purpose of depriving, either directly or indirectly, any person... of the equal protection of the laws, or of equal privileges and immunities under the laws...; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."

37. Defendants BARNEYS and the NYPD OFFICERS did conspire to directly violate Plaintiff's federal Constitutional and Statutory rights, as enumerated above, by virtue of their cooperative effort to racially profile and discriminate against Plaintiff and to monitor, surveil, track, stop, accost, question and search her without legal authority or consent. Said

conduct of Defendants was motivated by a racial animus.

38. Defendants **BARNEYS** and the **NYPD OFFICERS** did conspire to indirectly violate Plaintiff's federal Constitutional and Statutory rights, as enumerated above, by virtue of their cooperative effort to racially profile and discriminate against Plaintiff and to monitor, surveil, track, stop, accost, question and search her without legal authority or consent. Said conduct by defendants was motivated by a racial animus.

39. That Defendant **NYPD OFFICERS** did in fact further the conspiracy by monitoring, surveilling, tracking, stopping, accosting, questioning and searching Plaintiff without legal authority or consent.

40. As a result of the Defendants' conduct Plaintiff suffered a deprivation of the above enumerated rights guaranteed by the United States Constitution, the laws of The United States and the State of New York.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANT BARNEYS NEW YORK, INC BASED ON 42 U.S.C. 1986

41. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "40" as if set forth herein at length.

42. In relevant part 42 U.S.C. § 1986 provides that, "[e]very person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such

damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action."

43. Defendant BARNEYS had knowledge of the conspiracy to discriminate against Plaintiff and deprive her of certain federal constitutional and statutory rights.

44. Defendant BARNEYS had the power to prevent or aid in the prevention of the acts that infringed upon Plaintiff's federal Constitutional and Statutory rights.

45. Despite having this power BARNEYS neglected or refused to prevent the acts of discrimination from being perpetrated upon plaintiff.

46. As a result of BARNEYS actions, or failures thereof, Plaintiff suffered a deprivation of the above enumerated rights guaranteed by the United States Constitution, the laws of The United States and the State of New York

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANT BARNEYS NEW YORK, INC. BASED ON N.Y. EXECUTIVE LAW § 296(2)(a)

47. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "46" as if set forth herein at length.

48. Under N.Y. Executive Law § 296(2)(a), places of public accommodation cannot deny any of the "accommodations, advantages, facilities or privileges thereof" based on a person's race, color or national origin.

49. N.Y. Executive Law § 292(9) defines the places of public accommodation to which section 296(2)(a) applies to include "retail stores and establishments" such as BARNEYS NEW YORK, INC'S 660 Madison Avenue retail store.

50. The conduct of BARNEYS NEW YORK, INC. in cooperation with Defendant NYPD Officers to monitor, surveil, track, stop, accost, question and search Plaintiff in a disparate manner denied her the privileges of a place of accommodation.

51. Upon information and belief that denial was based on Plaintiff's race, color or national origin in violation of N.Y. Executive Law § 296(2)(a).

**AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANT BARNEYS
NEW YORK INC. BASED ON N.Y. CIVIL RIGHTS LAW §§ 40 AND 40-c**

52. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "51" as if set forth herein at length.

53. Under N.Y. Civil Rights Law § 40, places of public accommodation cannot "withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof" based on a person's race, color or national origin.

54. N.Y. Civil Rights Law § 40 defines places of public accommodation to include "retail stores and establishments" such as BARNEYS 660 Madison Avenue retail store.

55. N.Y. Civil Rights Law § 40-c provides that all persons shall be entitled to equal protection of the laws of the state and that no person be subjected to discrimination based on race, color or national origin by any person or corporation.

56. The conduct of BARNEYS in cooperation with Defendant NYPD OFFICERS to racially profile and discriminate against Plaintiff and to monitor, surveil, track, stop, accost, question and search Plaintiff in a disparate manner denied her the privileges of a place of accommodation.

57. Upon information and belief that denial was based on Plaintiff's race, color and/or national origin in violation of N.Y. Civil Rights Law §§ 40 and 40-c.

AS AND FOR AN EIGHTH CAUSE OF ACTION AGAINST DEFENDANT SGT. ERICA TRIEBEL BASED ON 42 U.S.C. § 1983

58. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "57" as if set forth herein at length.

59. In relevant part, 42 U.S.C. §1983 provides that, "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

60. Upon information and belief on February 28, 2013 Defendant SGT. TRIEBEL was acting under color of law and in the course of her duties and obligations as an officer of the NYPD.

61. That upon information and belief on February 28, 2013 Defendant SGT. TRIEBEL racially profiled and discriminated against Plaintiff and monitored, surveilled, tracked, stopped, accosted, questioned and searched her in violation of her rights and privileges guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution, as well as under and other applicable federal constitutional and statutory rights.

62. In the manner aforesaid Defendant SGT. TRIEBEL acted maliciously, willfully and with wanton disregard of Plaintiff rights to be free from:

- a. Unreasonable search and seizure
- b. Search and seizure without probable cause or reasonable suspicion
- c. Unlawful detainment
- d. Civil assault
- e. Interference with her right to make and enforce contracts
- f. Interference with her right to purchase and hold personal property
- g. Discriminatory treatment based on her color and race
- h. Unlawful interference with her liberty rights

63. As a result of Defendant's conduct Plaintiff suffered a deprivation of the above enumerated rights guaranteed by the United States Constitution, the laws of The United States and the State of New York.

**AS AND FOR A NINTH CAUSE OF ACTION AGAINST DEFENDANT SGT. ERICA
TRIEBEL FOR FALSE IMPRISONMENT**

64. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "63" as if set forth herein at length.

65. That on February 28, 2013 at approximately 4:30pm at the 59th Street and Lexington Avenue Subway Station Defendant SGT. TRIEBEL intentionally confined Plaintiff.

66. Plaintiff was aware of her confinement.

67. Plaintiff in no way consented to her confinement nor was it otherwise privileged.

AS AND FOR A TENTH CAUSE OF ACTION AGAINST DEFENDANT SGT. ERICA

TRIEBEL FOR CIVIL ASSAULT

68. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "67" as if set forth herein at length.

69. That on February 28, 2013 at approximately 4:30pm at the 59th Street and Lexington Avenue Subway Station Defendant SGT. ERICA TRIEBEL intentionally placed Plaintiff KAYLA PHILLIPS in fear of a harmful or offensive contact.

70. That as a result of Defendant SGT. ERICA TRIEBEL'S conduct Plaintiff in fact experienced a reasonable apprehension of an impending harmful or offensive contact.

71. Plaintiff in no way consented to Defendant SGT. ERICA TRIEBEL'S conduct nor was it otherwise privileged.

**AS AND FOR AN ELEVENTH CAUSE OF ACTION AGAISNT DEFENDANT SGT.
ERICA TRIEBEL FOR BATTERY**

72. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "71" as if set forth herein at length.

73. That on February 28, 2013 at approximately 4:30pm at the 59th Street and Lexington Avenue Subway Station Defendant SGT. ERICA TRIEBEL intentionally committed a harmful or offensive contact upon Plaintiff KAYLA PHILLIPS.

74. Plaintiff in no way consented to the conduct of Defendant SGT. ERICA TRIEBEL nor was it otherwise privileged.

**AS AND FOR A TWELFTH CAUSE OF ACTION AGAINST DEFENDANT P.O. BRIAN
KESTERER BASED ON 42 U.S.C. § 1983**

75. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "74" as if set forth herein at length.

76. In relevant part, 42 U.S.C. §1983 provides that, "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

77. Upon information and belief on February 28, 2013 Defendant **P.O. KESTERER** was acting under color of law and in the course of his duties and obligations as an officer of the NYPD.

78. That upon information and belief on February 28, 2013 Defendant **P.O. KESTERER** racially profiled and discriminated against Plaintiff and monitored, surveilled, tracked, stopped, accosted, questioned and searched her in violation of her rights and privileges guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution, as well as under and other applicable federal constitutional and statutory rights.

79. In the manner aforesaid Defendant **P.O. KESTERER** acted maliciously, willfully and with wanton disregard of Plaintiff rights to be free from:

- i. Unreasonable search and seizure
- j. Search and seizure without probable cause or reasonable suspicion
- k. Unlawful detainment

- l. Civil assault
- m. Interference with her right to make and enforce contracts
- n. Interference with her right to purchase and hold personal property
- o. Discriminatory treatment based on her color and race
- p. Unlawful interference with her liberty rights

80. As a result of Defendant's conduct Plaintiff suffered a deprivation of the above enumerated rights guaranteed by the United States Constitution, the laws of The United States and the State of New York.

**AS AND FOR A THIRTEENTH CAUSE OF ACTION AGAINST DEFENDANT P.O.
BRIAN KESTERER FOR FALSE IMPRISONMENT**

81. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "80" as if set forth herein at length.

82. That on February 28, 2013 at approximately 4:30pm at the 59th Street and Lexington Avenue Subway Station Defendant P.O. KESTERER intentionally confined Plaintiff.

83. Plaintiff was aware of her confinement.

84. Plaintiff in no way consented to her confinement nor was it otherwise privileged.

**AS AND FOR A FOURTEENTH CAUSE OF ACTION AGAINST DEFENDANT P.O.
BRIAN KESTERER FOR CIVIL ASSAULT**

85. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs

"1" through "84" as if set forth herein at length.

86. That on February 28, 2013 at approximately 4:30pm at the 59th Street and Lexington Avenue Subway Station Defendant P.O. KESTERER intentionally placed Plaintiff KAYLA PHILLIPS in fear of a harmful or offensive contact.

87. That as a result of Defendant P.O. KESTERER'S conduct Plaintiff in fact experienced a reasonable apprehension of an impending harmful or offensive contact.

88. Plaintiff in no way consented to Defendant P.O. KESTERER'S conduct nor was it otherwise privileged.

AS AND FOR A FIFTEENTH CAUSE OF ACTION AGAISNT DEFENDANT P.O. BRIAN KESTERER FOR BATTERY

89. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs "1" through "88" as if set forth herein at length.

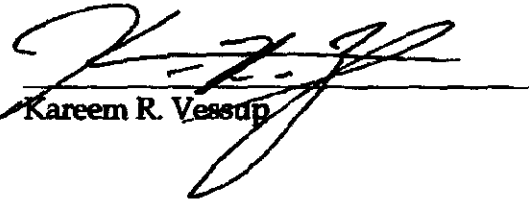
90. That on February 28, 2013 at approximately 4:30pm at the 59th Street and Lexington Avenue Subway Station Defendant P.O. KESTERER intentionally committed a harmful or offensive contact upon Plaintiff KAYLA PHILLIPS.

91. Plaintiff in no way consented to the conduct of Defendant P.O. KESTERER nor was it otherwise privileged.

WHEREFORE, the Plaintiff, KAYLA PHILLIPS, demands judgment against the Defendants, together with the costs and disbursements of this action in an amount of damages greater than the jurisdictional limit of any lower court which would otherwise have jurisdiction. Additionally, Plaintiff demands in respect of all causes of action, punitive

damages and attorney fees pursuant to 42 USC Section 1988.

Dated: JAMAICA, NEW YORK
DECEMBER 18, 2013


Kareem R. Vessup

ATTORNEY'S VERIFICATION

Kareem R. Vessup Esq., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury.

I am a member of the LAW OFFICE OF KAREEM R. VESSUP, attorney-of-record for Plaintiff KAYLA PHILLIPS in the action within. I have read the annexed:

SUMMONS AND COMPLAINT

and know the contents thereof, and the same are true to my knowledge, except those matters therein, which are stated to be alleged upon information and belief, and as to those matters, I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records and other pertinent information contained in my files.

The reason I make the foregoing affirmation instead of the Plaintiff is because the Plaintiff is not presently in the county wherein I maintain my Law Office.

DATED: JAMAICA, NEW YORK
DECEMBER 18, 2013


Kareem R. Vessup